

ELKHART COUNTY RULES OF COURT

THE FOLLOWING RULES SHALL BE IN FULL FORCE AND EFFECT UNTIL AMENDED BY THE JUDGES OF THE COURTS OF ELKHART COUNTY.

LR20-AR00-NADC-1 DRESS AND CONDUCT

- (A) Lawyers and litigants shall be appropriately attired during all court appearances.
- (B) Lawyers, litigants, and spectators shall at all times speak and behave in such a manner as to respect the dignity and authority of the Courts, Judges, Commissioners and all judicial personnel, and shall not lean on the bench nor sit on counsel tables
- (C) No person shall bring food or beverage into any courtroom without the prior approval of the judge, magistrate or commissioner of that court.
- (D) All cell phones, pagers and any other personal electronic devices shall be turned off during all court proceedings.

LR20-AR00-NAFC-(3) FILING OF CASES

(A) GENERAL

All new causes of action shall be docketed with the Clerk of the Court and shall comply with Trial Rule 77 and Administrative Rule 9.

(B) COURT COSTS

No cause shall be docketed or transferred without payment of the costs of the action, unless otherwise ordered.

1) COLLECTION OF FEE FOR LATE PAYMENT

- A) A late fee is assessed to the defendant if the defendant has:
- committed a crime;
 - violated a statute defining an infraction;
 - violated an ordinance of a municipal corporation; or
 - committed a delinquent act, and the defendant is required to pay:
 - court costs, including fees;
 - a fine; or
 - a civil penalty, and the defendant is not determined by the court imposing the court costs, fine, or civil penalty to be indigent.
- B) If the defendant fails to pay to the clerk the costs, fine, or civil penalty in full before the late of the following:
- The end of the business day on which the court enters the conviction or judgment.
 - The end of the period specified by the Court.
- C) The fee assessed is \$25.00 or, if amended, that sum allowed by I.C. 33-37-7-22.
- D) The court may, if the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty may suspend the payment of the late fee.

(C) ASSIGNMENT OF CRIMINAL CASES

- 1) Criminal cases shall be filed in specific courts as follows:
- a. Elkhart Circuit Court
- All murder charges;
 - All attempted murder cases, except child victim cases
 - All manslaughter cases, except those in which a child is the victim
 - All vehicular homicide cases

- All robbery cases
 - All reckless homicide cases
 - One-half (½) of all Class A, B and C controlled substance sale and possession cases
 - Juvenile cases (Magistrate)
 - Grand Jury cases
- b. Elkhart Superior Court 1
- All rape cases, except child victim cases
 - all criminal deviate conduct cases, except child victim cases
 - All sexual battery cases, except child victim cases
 - All criminal recklessness cases, except when a child is the victim
 - All C battery and domestic battery cases, except child victim cases, and except those filed in the three (3) city courts sitting in Elkhart County, Indiana
 - All class B felony cases which are not specifically assigned to a court pursuant to this rule
- c. Elkhart Superior Court 2
- All burglary cases
 - All welfare fraud cases
 - All forgery cases
 - All class C felony theft cases
 - All arson cases
 - All class C felony cases which are not specifically assigned to a court pursuant to this rule
- d.. Elkhart Superior Court 3
- All child victim cases except murder
 - One-half (½) of all class A, B and C controlled substance sale and possession cases
 - All kidnaping and confinement cases
 - All Class A felony cases which are not specifically assigned to a court pursuant to this rule
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- e. Elkhart Superior Court 4
- One-half (½) of all habitual traffic offender cases and one-third (1/3) of all other class D felony and misdemeanor cases, except non-support cases and those filed in the three (3) city courts sitting in Elkhart County, Indiana.
 - All infraction and county ordinance cases other than those filed in the aforementioned city courts
- f. Elkhart Superior Court 5
- One-half (½) of all habitual traffic offender cases and one-third (1/3) of all other class D felony and misdemeanors, except non-support cases and those cases filed in the aforementioned city courts
- g. Elkhart Superior Court 6
- All non-support cases and one-third (1/3) of all class D felony and misdemeanor cases, except habitual traffic offender cases and those cases filed in the aforementioned city courts

- 2) Should a criminal case be pending in a given court, and should an equally serious or less serious criminal case against the same defendant be received by the Prosecutor's Office for filing, the more recently submitted cases shall be filed in the same court as that in which the existing case is pending. In the event that a criminal charge is pending against a given defendant in a given court, and in the further event that a judgment of conviction or acquittal has not yet been entered in that case, and in the further event that, pursuant to the dictates of this Rule, a criminal charge carrying a more severe penalty is filed in another Elkhart County Court, the criminal charge carrying the less severe penalty shall be transferred to the Court in which the other charge has been filed. All cases originally filed as a lesser offense, and subsequently recharged as murder, shall thereupon be transferred to Circuit Court. All cases which may be filed in more than one court (e.g. Class A, B and C controlled substances cases) shall be filed on a purely rotating basis. The provisions of Rule 2(B)2 do not apply to domestic battery cases.
- 3) All cases in which juvenile court jurisdiction is waived to adult court shall be filed in the appropriate court as dictated by this rule.
- 4) All charges of escape shall be filed in the court which committed the defendant to the facility from which he or she allegedly escaped. All charges of failure to appear shall be filed in the court in which the subject order to appear was entered.
- 5) After January 1, 2003, in the event that the Judge of the Elkhart Circuit Court recuses himself in a given case due to a real or apparent conflict of interest, that case shall be transferred to the Elkhart Superior Court 3. IN the event that the Judge of the Elkhart Superior Court 3 recuses himself in a given case due to a real or apparent conflict of interest, that case shall be transferred to Elkhart Circuit Court. In the event that the Judge of the Elkhart Superior Court 1 recuses himself in a given case due to a real or apparent conflict of interest, that case shall be transferred to Elkhart Superior Court 2. In the event that the Judge of the Elkhart Superior Court 2 recuses himself in a given case due to a real or apparent conflict of interest, that case shall be transferred to the Elkhart Superior Court 1. In the event that the Judge of the Elkhart Superior Court 4 recuses herself in a given case due to a real or apparent conflict of interest, that case shall be transferred to Elkhart Superior Court 5. In the event that the Judge of the Elkhart Superior Court 5 recuses himself in a given case due to a real or apparent conflict of interest, that case shall be transferred to Elkhart Superior Court 6. In the event that the Judge of the Elkhart Superior Court 6 recuses himself in a given case due to a real or apparent conflict of interest, that case shall be transferred to Elkhart Superior Court 4.
- 6) All requests for a jury trial in the Elkhart City Court shall be transferred to Elkhart Superior Court 5.
- 7) All other city courts receiving requests for jury trial shall be transferred to Elkhart Circuit Court for assignment to an appropriate court or magistrate.
- 8) All requests for trial de novo shall be referred to Elkhart Circuit Court for assignment to an appropriate court or magistrate.
- 9) If a change of judge is to occur and the provisions of paragraph 5 above cannot be implemented due to a real or perceived conflict on the part of the receiving judge in a criminal case, the presiding judge shall submit to the parties a panel naming three judges. Each party shall be entitled to strike one name, with the defendant entitled to strike first. The striking process shall be completed within fourteen (14) days of the date upon which the panel of prospective special judges is submitted to the parties for consideration. IF a party fails to strike timely, the Clerk of Elkhart County shall make a strike for that party. Upon completion of the striking procedure, the presiding judge shall appoint the remaining judge as special judge. The special judge shall accept jurisdiction of the cases unless the special judge is disqualified pursuant to the Code of Judicial Conduct. An oath or additional evidence of jurisdiction shall not be required.

(D) ASSIGNMENT OF CIVIL CASES

- 1) Civil cases shall be filed in specific courts as follows:
 - a. Elkhart Circuit Court
 - All civil filings with the exception of mental health cases and small claims.
 - Juvenile paternity except those filed in Superior Court 6.
 - Juvenile CHINS and termination cases (Elkhart Circuit Court, Juvenile Division).
 - b. Elkhart Superior Court 1
 - All civil filings with the exception of mental health cases and small claims.
 - Juvenile paternity except those filed in Superior Court 6.
 - c. Elkhart Superior Court 2
 - All civil filings with the exception of guardianships and small claims.
 - Juvenile paternity except those filed in Superior Court 6.
 - d. Elkhart Superior Court 3
 - All civil filings except guardianships and small claims.
 - e. Elkhart Superior Court 4
 - All civil filings except guardianship, estates, mental health paternity and dissolution cases.
 - f. Elkhart Superior Court 5
 - All civil filings except guardianships, estates, mental health paternity and dissolution cases.
 - g. Elkhart Superior Court 6
 - All civil filings except guardianships, estates and mental health.

(E) TRANSFER & REFERRAL OF CASES

- 1) Whenever a judge is designated Special Judge in a case filed in another court, the designated Special Judge hereby consents to the transfer of the case and the transferring Court may so note in its order of transfer.
- 2) A case may be transferred on the court's own motion to a court of equal jurisdiction within Elkhart County. Whenever an action is transferred to another court, the Judge of the transferee court hereby consents to the transfer of the case and the transferring Court may so note in its order of transfer.
- 3) A case referred to a magistrate shall be referred on specific issue(s) to be heard by the magistrate. Upon entry of an order by the magistrate or approval of an agreement of the parties on said issue(s), the case will be returned to the regular judge of the court.
- 4) When the Judge of the Elkhart Circuit Court enters an order recusing himself due to a conflict of interest in a felony case, said case shall be assigned to the Senior Judge, as approved by the Indiana Supreme Court. The Senior Judge shall accept and retain jurisdiction for all future proceedings unless disqualified under the Code of Judicial Conduct, excused from service by the Indiana Supreme Court, a specific statute or rule provides to the contrary, or the Senior Judge is unavailable by reason of death, sickness or unwillingness to serve. If further reassignment is required, it shall be in the same manner as set forth in the rules of criminal procedure. Upon recusal, the Clerk shall complete the process for transfer to the Senior Judge. An oath or special order accepting jurisdiction shall NOT be required.
- 5) If a selected judge cannot serve, reassignment of the case shall be determined by the Administrative Judge for Administrative District 2, in compliance with Indiana Trial Rule 79(H), as adopted by the courts in Administrative District 2.

(F) DELINQUENT LISTS

- 1) Any civil case pending for more than six months may be placed upon a _Delinquent List_ pursuant to Trial Rule 41(E). Any case so listed shall, after 45 days, be dismissed at the

cost of the filing party, except for good cause shown. Any case so dismissed shall be deemed to have been dismissed with prejudice as to all parties, unless otherwise ordered.

- 2) Any probate matter in which no filing has been made for more than one year may be placed upon a _Delinquent List." If no action is taken within 45 days thereafter, the Court may require the personal representative to show cause why the Court should not impose an appropriate sanction against the personal representative.
- 3) Guardianships shall not be placed upon a delinquent list within two years after the issuance of letters of guardianship, the filing of an inventory, or the filing of a current account.

LR20-TR3.1-NAEA-3 APPEARANCES

(A) ENTRY OF APPEARANCE

- 1) Appearances shall be made in writing in the state prescribed appearance form in all cases. An attorney's appearance for a party shall not operate as an automatic enlargement of the time for filing a responsive pleading.
- 2) Appearances once entered remain on record until final disposition.
- 3) Appearances of attorneys at initial hearings in the Elkhart Circuit Court Juvenile Division shall continue through case closure, including violation of probation and modification of disposition hearings unless withdrawal of appearance is granted by the Court.
- 4) Attorney appointed under a CHINS cause number shall be presumed to represent the party under the corresponding Termination cause. The docket shall indicate such representation unless and until the Court is notified otherwise.

(B) WITHDRAWAL OF APPEARANCE

- 1) An attorney's appearance for a party will be withdrawn if:
 - a. Another attorney simultaneously appears for the party;
 - b. The attorney provides satisfactory evidence that the party has discharged the attorney; or
 - c. The party acquiesces to the withdrawal.
- 2) In all other circumstances, an attorney seeking permission to withdraw an appearance shall file a written motion stating justification for the withdrawal. The attorney shall give the party 21 days' written notice of the attorney's intention to seek permission to withdraw. This notice shall (1) Inform the party that failure to secure new counsel may result in dismissal of the party's case or in entry of a judgment or ruling against the party, (2) set forth the date of any scheduled hearing or trial, and (3) include any other pertinent information. Except for good cause shown, an appearance will not be withdrawn within twenty-one days prior to commencement of a trial.
- 3) In keeping with the provisions of the Indiana Rules of Professional Conduct, an attorney's representation of a client in a given cause pending before an Elkhart County court of general jurisdiction shall be deemed concluded upon:
 - a. The entry of an order of court withdrawing that attorney's appearance in that matter for that client; or,
 - b. Resolution of all issues raised prior to, or during the course of, that representation. For purposes of this Rule, the term _resolution_ shall mean entry of a judgment or an appealable order determining such issues. Should an attorney wish to appear in a given cause a second, or subsequent, time, he or she must file a new appearance in conformity with the dictates of Trial Rule 3.1. This rule does not apply to small claims.

LR20-TR00-NAFD-4 FILING OF DOCUMENTS

(A) All documents filed with a court, including but not limited to any reports, modification petitions, memos, motions, orders and notices shall be labeled with the assigned sixteen [16] digit cause number of all causes to which such documents are intended to apply.

(B) Appearances and pleadings not requiring immediate action by the Court shall be filed with the Clerk. Filings shall comply fully with the provisions of Trial Rule 77 and Administrative Rule 9 regarding confidentiality, and shall include the names, addresses, phone numbers, dates of birth and Social Security Account Number or Federal Tax Identification Number of the parties.

(C) In civil cases, a party shall file the original of any pleading, motion, or other document plus only such additional copies as may be required for service on other parties. The filing party shall prepare all forms of summons and citations, provide all materials required for service, and shall provide all parties' names, addresses, telephone numbers, Social Security numbers and dates of birth. If the filing party requests a hearing, that party shall also provide an appropriate form of notice.

(D) When a party requests any order other than a protective order, a preliminary injunction or a restraining order, that party shall tender two (2) copies of the requested order plus one (1) for each other party. When a party requests a protective order, a preliminary injunction, or a restraining order, that party shall tender six (6) copies of the requested order.

(E) All motions to dismiss, motions for summary judgment motions for judgment on pleadings, and similar motions shall be accompanied by a memorandum of legal authority. Any response to such motions shall be accompanied by a similar memorandum.

(F) All pleadings filed in a case while assigned to a magistrate must be file-marked in the appropriate court and then delivered to the magistrate's office by the attorney making the filing. The magistrate will make appropriate entries on the chronological case summary (CCS). Upon entry of an order by the magistrate or approval of an agreement of the parties on said issue(s), the case will be returned to the regular judge of the court, and filings thereafter will be filed with the regular judge of the court.

(G) All pre-fact finding hearing motions and pleadings in juvenile delinquency cases shall be in writing and in compliance with the appropriate rules of procedure. All such motions shall be accompanied by a memorandum of authorities. Any responses to such motions shall be accompanied by a memorandum of authorities and shall be filed within seven (7) days if the child is in secure custody; or fourteen (14) days if not in custody upon the filing of such motions. The failure of either party to comply with this rule shall result in the denial of the motion or in the striking of the response, as appropriate.

(H) PREPARATION OF DOCUMENTS

The lawyer for a party or any party appearing pro se shall be responsible for preparing and filing summons, citations, notices or other documents for which forms may be obtained from the Clerk of the Court. These forms shall include any names, addresses and other descriptive information, such as place of employment, necessary to affect service of said document. Whenever a form of order is required, the parties shall tender to the Court an appropriate form.

(I) PRO SE FILINGS/FORMS

Copies of pro se forms prepared by the Indiana Supreme Court shall be located in the Offices of the Clerk of the Court. Upon request, copies of such forms shall be provided by the Clerk of the Court at the expense of the person requesting said form.

(J) RECORD OF JUDGMENTS AND ORDERS

The Record of Judgments and orders shall consist of original orders entered by the Court, all certified by the Judge for each day and placed in appropriate permanent binders.

(K) COPIES DOCUMENTS FURNISHED BY THE CLERK

On application of any person, the Clerk of the Court shall copy any pleading or order at the expense of the person requesting the copy. This rule shall not apply to actions to establish paternity, adoptions, juvenile proceedings or other actions which are not a matter of public record.

(L) WITHDRAWAL OF ORIGINAL MATERIAL

No person shall withdraw any original pleading, paper, record, model, exhibit, or other document from the custody of the Clerk, except upon order of the Court and upon leaving a proper receipt with the Clerk or other officer.

LR20-FL00-CVFL-(7*) DOMESTIC RELATIONS MATTERS

(A) All parties to a dissolution action which involves minor children shall attend, at their own expense, the TRANSPARENTING Seminar and the SEASONS FOR CHILDREN Program conducted by Family Services of Elkhart County, Inc., pursuant to the standing orders for attendance. Unless attendance is waived by the Court, no dissolution decree shall be entered until the parties have complied with this rule.

(B) FINANCIAL DISCLOSURES

- 1) Any party seeking an initial order of child support or spousal maintenance, or the modification of an existing order of support or maintenance, shall, at the first hearing on such request, provide the court and any other party with appropriate verification of that party's current income and childcare expenses.
- 2) A party seeking an order which deviates from the Child Support Schedule calculation shall set forth facts supporting the deviation. At or before any hearing on a motion for support or maintenance, the responding party shall file a verified statement showing the party's income and childcare expenses.
- 3) At or before any pretrial conference, both parties shall file and exchange verified financial disclosure statements. In any event a verified financial disclosure statement shall be filed by both parties at least thirty (30) days prior to submission, unless such filing is waived in writing by both parties. Such waiver shall be filed with the court at the time of submission.
- 4) Any party failing to comply with the provisions of subsection 3 above shall be ordered to pay a sanction of \$100.00. If this amount is not paid AND the verified financial disclosure is not tendered to the opposing party within fifteen (15) days of the pretrial conference, the noncomplying party shall forthwith pay a sanction of \$200.00. All payments due under this subsection shall be made to the Treasurer of Elkhart County for deposit into the General Fund. Hearings shall be scheduled to monitor compliance. The Court may also impose such other sanctions permitted by statute or rule as it deems appropriate.

(C) DISCOVERY LIMITATION

No party shall engage in excessive use of interrogatories, motions for production, or requests for admissions.

(D) ATTORNEY FEES

- 1) In the absence of contradictory evidence, a reasonable initial attorney fee shall be \$1,200.00. Allocation of this fee between the parties shall be calculated through use of the following formula:
 - a. Husband's gross income from line 1 or line 2 of support worksheet (if maintenance

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| | is ordered, use line 2). | \$ _____ |
| b. | Wife's gross income from line 3
or line 4 of support worksheet (if
maintenance is ordered use line 4). | \$ _____ |
| c. | Add lines A and D. | \$ _____ |
| d. | Divide line A by line C. | \$ _____ |
| e. | Divide line B by line C. | \$ _____ |
| f. | Multiply \$2,400.00 by line D or
line E, whichever is greater. | \$ _____ |
| g. | Subtract \$1,200.00 | \$1200.00 |
| h. | Line F minus line G. | \$ _____ |

The party having the greater income shall pay the amount shown on line H to the attorney for the party having, the lesser income. If the party having, the lesser income is not represented by an attorney, then no attorney fees will be ordered.

- 2) In the absence of contradictory evidence a reasonable attorney fee for prosecution of a post dissolution rule to show cause shall be a minimum of \$400.00 for one court appearance. A minimum of \$200.00 will be added for each additional court appearance.

(E) DECREE PROVISIONS

- 1) Each decree of dissolution of marriage shall contain a provision which requires compliance with the applicable Indiana statute governing relocation of the residence of unemancipated children. That provision shall also make specific reference to that statute in order to assist lay persons in reviewing and copying it.
- 2) Both parties shall attach to the decree a current Child Support Computation Worksheet.

(F) TWO-PARTY AUCTION

- 1) If the parties are unable to divide personal property and household goods by agreement, the method of division shall be by the private two-party auction, which shall be conducted by the lawyers for the parties or a Magistrate in a timely manner on such terms as (s)he deems appropriate.
- 2) Either party may initiate a two-party auction at any point in the proceedings upon application to the court. Upon application, the non-possessory party may have reasonable access to the personal property in order to comply with this rule.
- 3) Prior to the auction, the two parties are ordered to prepare and submit one itemized list of all household goods and personal property noting, items of a separate nature (e.g. premarital, extended family gifts, inheritance, disposed of or disputed items, etc.).
- 4) A party who intentionally fails to cooperate or participate in the inventory and auction process will be subject to sanctions.
- 5) At the conclusion of the auction, the Magistrate or lawyer conducting the auction shall immediately provide copies of all pages indicating the auction results to the parties, and the said results shall be promptly be filed with the appropriate court.

(G) ARBITRATION PROCEDURES FOR DISSOLUTION MATTERS

In addition to all other ADR procedures, Elkhart County family law matters such as summary property settlement trials, visitation modifications and disputes, support modifications or computations of support arrearages, and college expense determinations, may be submitted to binding arbitration.

- 1) Arbitrators will be Senior Judges, experienced attorneys or mediators with a minimum of ten (10) years' experience in the domestic relations field who are willing, to serve as arbitrators. The sitting judges with divorce dockets (Elkhart Circuit Court, Elkhart Superior Court 1, Elkhart Superior Court 2, Elkhart Superior Court 3 and Elkhart Superior Court 6) will maintain a panel or list of court-approved arbitrators.

- 2) Arbitrators will be chosen through any one of the following methods:
 - a. A rotating panel of the next three names on the arbitrator list will be automatically selected by the court. The parties then follow a striking process, similar to the change of judge procedure with the initial petitioning party to the original dissolution action to strike first within five (5) days and the responding party to strike five (5) days after the first strike;
 - b. Selection of one individual arbitrator by agreement of both sides;
 - c. Any other agree-selection method.
- 3) Arbitrators will be conducted along the format of a summary trial in order to get to key issues, expedite the proceeding, and give each side an opportunity to have its say before an impartial tribunal renders its decision.
- 4) Strict application to the rules of evidence will not be required, absent an election by the parties to follow all rules of evidence.
- 5) Arbitrators will be paid by the parties. Arbitrators will be paid a fee negotiated between the Arbitrators selected and the parties, or their counsel. The parties will pay the fee in proportion to their incomes, and must agree that the Arbitrator may use contempt power to collect the agreed arbitration fees. Any Arbitrator named during a calendar year must agree to perform one pro bono arbitration that year, so that this ADR mechanism will be available to those parties who cannot afford to pay.
- 6) The arbitrator's award and decision will be final. The award will be submitted by the arbitrator within twenty (20) days of the hearing, and approved as the Judge's Order within the normal workings of that Court.
- 7) In the event there are issues or questions unanswered by the agreement or these procedures, the questions or issues shall be resolved by reference to the Uniform Arbitration Act (IC § 34-57-2-1 through 34-57-2-22), the ADR Rules of the Indiana Supreme Court, or the Indiana Trial Rules.

LR20-FL00-CVFL-6 PARENTING-TIME GUIDELINES

(A) Except in unusual circumstances, contact between minor children and non-custodial parents shall be based upon _reasonable visitation with reasonable-notice." _Reasonable visitation_ contemplates that parties shall take into consideration their respective schedules, economic circumstances, and geographic locations, as well as the schedules and activities of the minor children. _Reasonable visitation_ shall be interpreted not to require any particular pattern of contact, but rather that pattern which best fits the need of the parents and the children at that specific time.

(B) Except when otherwise ordered by the Court visitation shall be as set forth in the INDIANA SUPREME COURT PARENTING TIME GUIDELINES AS ADOPTED BY ELKHART COUNTY.

(C) A copy of the INDIANA SUPREME COURT PARENTING TIME GUIDELINES AS ADOPTED BY ELKHART COUNTY shall be attached to the form of order or decree setting forth the visitation order. Counsel, or unrepresented parties, submitting such a form of order or decree are encouraged to reduce the number of pages required to reproduce the Guidelines by using, smaller type, so long as the resulting document remains legible. Using of both sides of each page upon which the Guidelines are printed is also encouraged.

(D) The Courts of Elkhart County collectively acknowledge that the parenting time guidelines may be changed from time to time. Those Guidelines which are in effect at the time that a custody visitation order is entered shall govern the conduct of the parties until modified by order of the appropriate court. A change in Guidelines subsequent to the entry of such an order may constitute a change of circumstances of sufficient magnitude to support modification of that order.

INDIANA SUPREME COURT PARENTING TIME GUIDELINES AS ADOPTED BY ELKHART COUNTY

PREAMBLE

The Indiana Parenting Time Guidelines are based on the premise that it is usually in a child's best interest to- have frequent, meaningful and continuing contact with each parent. It is assumed that both parents nurture their child in important ways, significant to the development and well being of the child. The Guidelines also acknowledge that scheduling parenting time is more difficult when separate households are involved and requires persistent effort and communication between parents to promote the best interest of the children involved. The purpose of these guidelines is to provide a model which may be adjusted depending, upon the unique needs and circumstances of each family. These Guidelines are based upon the developmental stages of children.

A child whose parents live apart has special needs related to the parent-child relationship. A child's needs and ability to cope with the parent's situation change as the child matures. Parents should consider these needs as they negotiate parenting time. They should be flexible and create a parenting time arrangement which addresses the unique needs of the child and their circumstances.

SCOPE OF APPLICATION

1. Generally These Guidelines are applicable to all child custody situations, including paternity cases and cases involving joint legal custody where one person has primary physical custody. However, they are not applicable to situations involving family violence, substance abuse, risk of flight with a child, or any other circumstances the court reasonably believes endanger the child's physical health or safety, or significantly impair the child's emotional development.
2. Presumption There is a presumption that the Indiana Parenting Time Guidelines are applicable in all cases covered by this Guidelines. Any deviation from these Guidelines by either the parties or the court must be accompanied by a written explanation indicating why the deviation is necessary or appropriate in the case.

A CHILD'S BASIC NEEDS

To insure more responsible parenting and to promote the healthy adjustment and growth of a child each parent should recognize and address a child's basic needs:

1. To know that the parents' decision to live apart is not the child's fault.
2. To develop and maintain an independent relationship with each parent and to have the continuing care and guidance from each parent.
3. To be free from having, to side with either parent and to be free from conflict between the parents.
4. To have a relaxed, secure relationship with each parent without being placed in a position to manipulate one parent against the other.
5. To enjoy regular and consistent time with each parent.
6. To be financially supported by each parent, regardless of how much time each parent spends with the child.
7. To be physically safe and adequately supervised when in the care of each parent and to have a stable, consistent and responsible child care arrangement when not supervised by a parent.
8. To develop and maintain meaningful relationships with other significant adults (grandparents, stepparents and other relatives) as long as these relationships do not interfere with or replace the child's primary relationship with the parents.

OTHER CONSIDERATIONS:

1. *It is usually in the children's best interests that each parent have frequent, meaningful and continuing contact with them.*
2. *The parents, in exercising visitation, should be flexible enough to adapt to the circumstances of each other and to the children.*

3. *Parents should at all times avoid speaking negatively about each other and should firmly discourage such conduct by relatives or friends.*
4. *Children should never be used by one parent to spy on the other.*
5. *Each parent should encourage the children to respect the other.*
6. *The basic rules of conduct and discipline established by the custodial parent should be the baseline standard for both parents, and consistently enforced by both so that the children do not receive mixed signals.*

SECTION I GENERAL RULES APPLICABLE TO PARENTING TIME

(A) COMMUNICATIONS

1. Between Parents Parents shall at all times keep each other advised of their home and work addresses and telephone numbers. Notice of any change in this information shall be given to the other parent in writing. All communications concerning a child shall be conducted between the parents. Any communication shall occur at reasonable times and places unless circumstances require otherwise. A child shall not be used to exchange documents or financial information between parents.
2. With A Child Generally A child and a parent shall be entitled to private communications without interference from the other parent. A child shall never be used by one parent to spy or report on the other. Each parent shall encourage the child to respect and love the other parent. Parents shall at all times avoid speaking negatively about each other in or near the presence of the child, and they shall firmly discourage such conduct by relatives or friends.
3. With A Child By Telephone Both parents shall have reasonable phone access to their child at all times. Telephone communication with the child by either parent to the residence where the child is located shall be conducted at reasonable hours, shall be of reasonable duration and at reasonable intervals, without interference from the other parent. If a parent uses an answering machine, voice mail or a pager, messages left for a child shall be promptly communicated to the child and the call returned.
4. With A Child By Mail A parent and a child shall have right to communicate privately by e-mail and faxes, and by cards, letters and packages without interference by the other parent.
5. Emergency Notification For emergency notification purposes, whenever a child travels out of the area with either parent, one of the following shall be provided to the other parent: An itinerary of travel dates destinations and places where the child or the traveling parent can be reached, or the name and telephone number of an available third person who knows where the child or parent may be located.

(B) IMPLEMENTING PARENTING TIME

1. Transportation Responsibilities Unless otherwise agreed between the parents, the non-custodial parent shall provide transportation for the child at the start of the scheduled parenting time and the custodial parent shall provide transportation for the child at the end of the scheduled parenting time.
In cases where jurisdiction is the residence of both parents and children at the time of the initial order, and one of the parents later leaves the jurisdiction, thus changing the visitation pattern, the Court will give strong consideration to imposing most of the costs of transportation necessary to facilitate future visitation on the party that moved. However, the Court will also consider other factors, such as the economic circumstances of the parents and the reasons prompting the move.
2. Punctuality Each parent shall have the child ready for exchange at the beginning and at the end of the scheduled parenting, time and shall be on time in picking up and returning the child. The parents shall communicate as early as possible regarding any situation that would interfere with the timely exchange of the child.
3. Clothing The custodial parent shall send an appropriate and adequate supply of clean clothing with the child and the non-custodial parent shall return such clothing in a clean condition. Each parent shall advise the other, as far in advance as possible, of any special activities so that the appropriate clothing, may be available to the child.
4. Privacy of Residence A parent may not enter the residence of the other except by express invitation, regardless of whether a parent retains a property interest in the residence of the other.

Accordingly, the child shall be picked up at the front entrance of the appropriate residence unless the parents agree otherwise. The person delivering the child shall not leave until the child is safely inside.

(C) CHANGES IN SCHEDULED PARENTING TIME

Introduction Parents should recognize there will be occasions when modification of the existing parenting schedule will be necessary. Parents should exercise reasonable judgment in their dealings with each other and with their child. Parents should be flexible in scheduling parenting time and should consider the benefits to the child of frequent, meaningful and regular contact with each parent and the schedules of the child and each parent.

1. Scheduled Parenting Time To Occur As Planned Parenting time is both a right and a responsibility, and scheduled parenting time shall occur as planned. If a parent is unable to provide personal care for the child during scheduled parenting time, then that parent shall provide alternate child care or pay the reasonable costs of child care caused by the failure to exercise the scheduled parenting time.
2. Adjustments to Schedule/ Make Up Time Whenever there is a need to adjust the established parenting schedules because of events outside the normal family routine, the parent who becomes aware of the circumstance shall notify the other parent as far in advance as possible. Both parents shall then attempt to reach a mutually acceptable adjustment to the parenting schedule. If an adjustment results in one parent losing scheduled parenting time with the child, make-up time should be exercised as soon as possible. If the parents cannot agree on make-up time, the parent who lost the time shall select the make-up time within one month of the missed time.
3. Opportunity for Additional Parenting Time When it becomes necessary that a child be cared for by a person other than a parent or a family member, the parent needing the child care shall first offer the other parent the opportunity for additional parenting time. The other parent is under no obligation to provide the child care. If the other parent elects to provide this care, it shall be done at no cost.

(D) EXCHANGE OF INFORMATION

1. School Records Each parent shall promptly provide the other with copies of a child's grade reports and notices from school as they are received. A parent shall not interfere with the right of the other parent to communicate directly with school personnel concerning a child.
2. School Activities Each parent shall promptly notify the other parent of all school activities. A parent shall not interfere with the right of the other parent to communicate directly with school personnel concerning a child's school activities. The parent exercising parenting time shall be responsible to transport the child to school related activities.
3. Other Activities Each parent shall promptly notify the other parent of all organized events in a child's life which permit parental and family participation. A parent shall not interfere with the opportunity of the other parent to volunteer for or participate in a child's activities.
4. Health Information If a child is undergoing evaluation or treatment, the custodial parent shall communicate that fact to the non-custodial parent. Each parent shall immediately notify the other of any medical emergencies or illness of the child that requires medical attention. If a child is taking prescription or nonprescription medication, the custodial parent shall provide the non-custodial parent with a sufficient amount of medication with instructions whenever the non-custodial parent is exercising parenting time. The custodial parent shall give written authorization to the child's health care providers permitting an ongoing release of all information regarding the child to the non-custodial parent including the right of the provider to discuss the child's situation with the non-custodial parent.
5. Insurance A parent who has insurance coverage on the child shall supply the other parent with current insurance cards, an explanation of benefits, and a list of insurer-approved or HMO-qualified health care providers in the area where each parent lives. If the insurance company requires specific forms, the insured parent shall provide those forms to the other parent.
A custodial parent who, except in an emergency, takes the children to a doctor, dentist, or other provider not so approved or qualified shall pay any additional costs thus created. However, when there is a

change in insurance which requires a change in medical care providers and a child has a chronic illness, thoughtful consideration should be given by the parties to what is more important, allowing the child to remain with the original provider or the economic consequences of that decision. When there is an obligation to pay medical expenses, parents shall cooperate in submitting bills to the appropriate insurance carrier. Thereafter, the parent responsible for paying the balance of the bill shall make arrangements directly with the health care provider and shall inform the other parent thereof.

(E) RESOLUTION OF PROBLEMS

1. Disagreements Generally When a disagreement occurs regarding, parenting time and the requirements of these Guidelines, both parents shall make every effort to discuss options, including mediation, in an attempt to resolve the dispute before going to court.
2. Mediation If court action is initiated, the parents shall enter into mediation unless otherwise ordered by the court. *This decision will usually be made by the Judge at the first or initial hearing.*
3. Child Hesitation If a child is reluctant to participate in parenting time, each parent shall be responsible to ensure the child complies with the scheduled parenting time. In no event shall a child be allowed to make the decision on whether scheduled parenting time takes place.
4. Relocation When either parent considers a change of residence, reasonable advance notice of the intent to move shall be provided to the other parent so they can discuss necessary changes in the parenting schedule as well as the allocation of transportation costs in exercising parenting time which may result from the move.
5. Withholding Support or Parenting Time Neither parenting time nor child support shall be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for noncompliance. A child has the right both to support and parenting time, neither of which is dependent upon the other. If there is a violation of either requirement, the remedy is to apply to the court for appropriate sanctions.
6. Enforcement of Parenting Time
 - a) Contempt Sanctions. Court orders regarding parenting time must be followed by both parents. Unjustified violations of any of the provisions contained in the order may subject the offender to contempt sanctions. These sanctions may include fine, imprisonment and/or community service.
 - b) Injunctive Relief. Under Indiana law, a non-custodial parent who regularly pays support and is barred from parenting time by the custodial parent may file an application for an injunction to enforce parenting time under Indiana Code § 31-17-4-4.
 - c) Criminal Penalties. Interference with custody or visitation rights may be a Crime. Indiana Code § 35-42-3-4.
 - d) Attorney Fees. In any court action to enforce an order granting or denying parenting time, a court may award reasonable attorney fees and expenses of litigation. A court may consider whether the parent seeking attorney fees substantially prevailed and whether the parent violating the order did so knowingly or intentionally. A court can also award attorney fees and expenses against a parent who pursues a frivolous or vexatious court action.

SECTION II SPECIFIC PARENTING TIME PROVISIONS

INTRODUCTION

The best parenting plan is one created by parents which fulfills the unique needs of the child and the parents. The specific provisions which follow are designed to assist parents and the court in the development of a parenting plan. They represent the minimum recommended time a parent should have to maintain frequent, meaningful, and continuing contact with a child.

(A) INFANTS AND TODDLERS

The first few years of a child's life are recognized as being critical to that child's ultimate development.

Infants (under eighteen months) and toddlers (eighteen months to three years) have a great need for continuous contact with the primary care giver who provides a sense of security, nurturing and predictability. It is thought best if scheduled parenting time in infancy be minimally disruptive to the infant's schedule.

The Courts of Elkhart county are disinclined to order visitation in the custodial parent's home, and believe that children's best interest are most often served by expanding contact between the non-custodial parent and his or her children.

1. Overnight-Parenting Time Unless it can be demonstrated that the non-custodial parent has not had regular care responsibilities for the child, parenting time shall include overnights. If the non-custodial parent has not previously exercised regular care responsibilities for the child, then parenting time shall not include overnights prior to the child's third birthday, except as provided below.

2. Parenting Time In Early Infancy (Birth through Age 9 months)

a) Birth through Age 4 months:

1. Three (3) non-consecutive "days" per week of two (2) hours in length.
2. All scheduled holidays of two hours in length.
3. Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

b) Age 5 months through Age 9 Months:

1. Three (3) non-consecutive days per week of three (3) hours per day. The child is to be returned at least one (1) hour before evening bedtime.
2. All scheduled holidays of three (3) hours in length. The child is to be returned at least one hour before evening bedtime.
3. Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

3. Parenting Time In Later Infancy (Age 10 Months through Age 18 Months)

a) Age 10 Months through Age 12 Months:

1. Three (3) non-consecutive days per week, with one day on a non-work day for eight (8) hours. The other days shall be for three (3) hours each day. The child is to be returned at least one (1) hour before evening bedtime.
2. All scheduled holidays for eight (8) hours. The child is to be returned at least one (1) hour before evening bedtime.
3. Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

b) Age 13 Months through Age 18 Months:

1. Three (3) non-consecutive days per week, with one day on a non-work day for ten (10) hours. The other days shall be for three hours each day. The child is to be returned at least one (1) hour before evening bedtime.
2. All scheduled holidays for eight (8) hours. The child is to be returned at least (1) hour before evening bedtime.
3. Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

c) Age 19 Months through 36 Months:

1. Alternate weekends on Saturdays for ten (10) hours and on Sundays for ten (10) hours. The child is to be returned at least one hour before bedtime, unless overnight is appropriate under Rule 1.
2. One (1) day preferably in midweek for three (3) hours the child to be returned at least one (1) hour before evening bedtime. Unless overnight during the week is appropriate under Rule 1.
3. All scheduled holidays for ten (10) hours. The child is to be returned one hour before bedtime.
4. If the non-custodial parent who did not initially have substantial care responsibilities has exercised the scheduled parenting time under these

guidelines for at least nine (9) continuous months, overnight parenting time may take place.

(B) CHILD 3 YEARS OF AGE AND OLDER

1. Regular Parenting Time
 - a) On alternating weekends from Friday at 6:00 PM until Sunday at 6:00 PM (the times may change to fit the parents' schedules).
 - b) One (1) evening per week, preferably in mid-week, for a period of up to four hours but the child shall be returned no later than 9:00 PM.
 - c) On all scheduled holidays.
2. Extended Parenting Time (Child through 4 Years Old) Up to four (4) non-consecutive weeks during the year beginning at 4:00 PM on Sunday until 4:00 PM on the following Sunday, the non-custodial parent to have sixty (60) days advance notice of the use of a particular week.
3. Extended Parenting Time (Child 5 and older) One-half of the summer vacation. The time may be either consecutive or split into two (2) segments. The non-custodial parent shall give notice to the custodial parent of the selection by April 1 of each year. If such notice is not given, the custodial parent shall make the selection.

If a child attends year-round school, the periodic breaks should be divided equally between the parents.

If a child attends summer school, the parent exercising parenting time shall be responsible for the child's transportation to and attendance at school.

During any extended summer period of more than two (2) consecutive weeks with the non-custodial parent, the custodial parent shall have the benefit of the regular parenting time schedule set forth above, unless impracticable because of distance created by out of town vacations.

Similarly, during the summer period when the children are with the custodial parent for more than two (2) consecutive weeks, the non-custodial parent's regular parenting time continues, unless impracticable because of distance created by out of town vacations. Notice of an employer's restrictions on the vacation time of either parent shall be delivered to the other parent as soon as that information is available. In scheduling parenting time the employer imposed restrictions on either parent's time shall be considered by the parents in arranging their time with their child.

(C) PARENTING TIME FOR THE ADOLESCENT AND TEENAGER

1. Regular Parenting Time Regular parenting time by the non-custodial parent on alternating weekends, during holidays, and/or an extended time during the summer months as set forth in the Parenting Time Guidelines (Section II B) shall apply to the adolescent and teenager.
2. Special Considerations In exercising parenting time with a teenager, the non-custodial parent shall make reasonable efforts to accommodate a teenager's participation in his or her regular academic, extracurricular and social activities.

D) HOLIDAY PARENTING TIME SCHEDULE

1. Conflicts Between Regular and Holiday Weekends The Holiday Parenting Time Schedule shall take precedence over regularly scheduled and extended parenting time. Extended parenting time takes precedence over regular parenting time unless otherwise indicated in these Guidelines. If the non-custodial parent misses a regular weekend because it is the custodial parent's holiday, the regular alternating parenting time schedule will resume following the holiday. If the non-custodial parent receives two consecutive weekends because of a holiday, the regular alternating parenting time schedule will resume the following weekend.

The holiday weekend shall not affect the regularly alternating weekend schedule which may result in a parent receiving three (3) consecutive weekends. It is anticipated that missed weekends due to the holiday weekend will balance out for each parent given the alternating schedule for the holidays provided for in these guidelines.

2. Holiday Schedule The following parenting times are applicable in all situations referenced in these Guidelines as _scheduled holidays_ with the limitations applied as indicated for children under the age of three years.

a) Special Days

1. Mother's Day With the child's mother from Friday at 6:00 PM until Sunday at 6:00 PM.
2. Father's Day With the child's father from Friday at 6:00 PM until Sunday at 6:00 PM.
3. Child's Birthday In even numbered years the non-custodial parent shall have all of the children on each child's birthday from 9:00 AM until 9:00 PM. However, if the birthday falls on a school day, then from 5:00 PM until 8:00 PM. In odd numbered years the custodial parent shall have all of the children on each child's birthday from 9:00 AM until 9:00 PM, however, If such day falls on a school day, then from 5:00 PM until 8:00 PM.
4. Parent's Birthday From 9:00 AM until 9:00 PM with that parent. However, if the parent's birthday falls on a school day, then from 5:00 PM until 8:00 PM.

- b) Christmas Vacation One-half of the period which will begin at 8:00 PM on the evening the child is released from school and concludes at 8:00 PM on the day before school resumes. If the parents cannot agree on the division of this period, the custodial parent shall have the first half in even numbered years. In those years when Christmas does not fall in a parent's week, that parent shall have the child from noon to 9:00 PM on Christmas Day. The winter vacation period shall apply to pre-school children and shall be determined by the vacation period of the public grade school in the custodial parent's school district.

Preference should be given to preserving long-standing family Christmas traditions, even if for example, one parent will always have Christmas Eve for their extended family's Christmas celebration. Section B modified to assure each parent will enjoy parenting time during ½ of the Christmas vacation.

c) Holidays

In years ending with an even number the non-custodial parent shall exercise the following parenting time:

1. Memorial Day From Friday at 6:00 PM until Monday at 7:00 PM.
2. Labor Day From Friday at 6:00 PM until Monday at 7:00 PM
3. Thanksgiving From 6:00 PM on Wednesday until 7:00 PM on Sunday.

In such years, the custodial parent shall exercise the following parenting time:

1. Spring Break From Friday at 6:00 PM through Sunday of the following weekend at 7:00 PM.
2. Easter From Friday at 6:00 PM until Sunday at 7:00 PM.
3. Fourth of July From 6:00 PM on July 3 until 10:00 AM on July 5.
4. Halloween On Halloween evening from 6:00 PM until 9:00 PM, or at such time as coincides with the scheduled time for trick or treating in the community where the non-custodial parent resides.

In years ending with an odd number, the non-custodial parent shall exercise the following parenting time:

1. Spring Break From Friday at 6:00 PM through Sunday of the following weekend at 7:00 PM.
2. Easter From Friday at 6:00 PM until Sunday at 7:00 PM.
3. Fourth of July From 6:00 PM on July 3 until 10:00 AM on July 5.
4. Halloween On Halloween evening from 6:00 PM until 9:00 PM, or at such time

as coincides with the scheduled time for trick or treating in the community where the non-custodial parent resides.

In such years, the custodial parent shall exercise the following parenting time:

1. Memorial Day From Friday at 6:00 p.m. until Monday at 7:00 p.m.
 2. Labor Day From Friday at 6:00 p.m. until Monday at 7:00 p.m.; and,
 3. Thanksgiving From 6:00 p.m. on Wednesday until 7:00 p.m. on Sunday.
3. Religious Holiday Religious-based holidays shall be considered by the parties and added to the foregoing holiday schedule when appropriate. The addition of such holidays shall not affect the Christmas vacation parenting time, however, they may affect the Christmas day and Easter parenting time.

SECTION III PARENTING TIME WHEN DISTANCE IS A MAJOR FACTOR

Where there is a significant geographical distance between the parents, scheduling parenting, time is fact sensitive and requires consideration of many factors which include employment schedules, the costs and time of travel, the financial situation of each parent, the frequency of the parenting time and others.

1. General Rules Applicable The general rules regarding parenting time as set forth in Section I of these guidelines shall apply.
2. Parenting Time Schedule The parents shall make every effort to establish a reasonable parenting time schedule. When distance is a major factor, the following parenting time schedule may be helpful:
 - a) Child Under 3 Years Of Age For a child under 3 years of age, the non-custodial parent shall have the option to exercise parenting time in the community of the custodial parent up to two (2) five hour periods each week. The five-hour period may occur on Saturday and Sunday on alternate weekends only.
 - b) Child 3 and 4 Years of Age For a child 3 and 4 years of age, up to six (6) one-week segments annually, each separated by at least (6) weeks, including the pickup and return of the child, no segment shall exceed eight (8) days.
 - c) Child 5 Years of Age and Older For a child 5 years of age and older, seven (7) weeks of the school summer vacation period and seven (7) days of the school winter vacation plus the entire spring break, including both weekends if applicable. Such parenting time, however, shall be arranged so that the custodial parent shall have religious holidays, if celebrated, in alternate years.
3. Priority of Summer Visitation Summer parenting time with the non-custodial parent shall take precedence over summer activities (such as Little League) when parenting time cannot be reasonably scheduled around such events. Under such circumstances, the non-custodial parent shall attempt to enroll the child in a similar activity in his or her community.
4. Extended Parenting Time Notice The non-custodial parent shall give notice to the custodial parent of the selection by April 1 of each year. If such notice is not given, the custodial parent shall make the selection.
5. Special Notice of Availability When the non-custodial parent is in the area where the child resides, or when the child is in the area where the non-custodial parent resides, liberal parenting time shall be allowed. The parents shall provide notice to each other, as far in advance as possible, of such parenting opportunities.

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SUPPORT AND MAINTENANCE STANDARDS

- (A) Except in unusual circumstances, the Courts shall follow the schedule of support payments and maintenance set forth in the Indiana Child Support Guidelines, including all explanations and formulas.
- (B) Temporary maintenance shall equal 33-1/3% of the parties' combined net income (net income is defined as gross income minus deductions for any other prior court ordered child support, legal duty of

support, other orders of maintenance paid, income producing expenses, and federal, state or local taxes paid). Any order for temporary maintenance shall expire ninety (90) days after the date upon which the order becomes effective. A party seeking an extension of an order for temporary maintenance shall file an appropriate petition and at a hearing shall show good cause for the extension.

(C) Maintenance paid to a party shall be deducted from the payor's income and added to the recipient's income, and determinations of child support and attorney fees obligations shall be based on those incomes as so adjusted.

(D) If both a support order and a maintenance order are entered, the parties shall recalculate support promptly after ninety (90) days so as to reflect the expiration of the maintenance order. The parties shall calculate support during both the maintenance period and thereafter, and shall file the results with the Court.

(E) If the non-custodial parent has continuous custody of one or more of the parties' minor children for a period of seven (7) days or more, the child support shall abate by one-half ($\frac{1}{2}$), pro rata, for each child in such continuous custody, until said child or children are returned to the custodial parent. That portion of support attributable to child care expenses for said child or children shall be totally abated.

(F) Medical insurance. Whichever party can provide the most comprehensive policy of medical insurance for the child(ren) at the lowest cost shall provide said insurance. The amount of the insurance premiums shall then be allocated between the parties on the percentage-of-income basis. If the non-custodial parent pays the insurance premiums, that parent shall receive credit against support paid each week in the amount of that parent's allocated portion of medical insurance. If the custodial parent pays the medical insurance premiums, that parent shall receive an additional amount of support each week equal to the non-custodial parent's percentage of medical insurance premiums. For good cause shown, and following a hearing at which both parties are given an opportunity to be present, the Court may in its discretion waive the requirement that medical insurance be provided for the benefit of minor children.

(G) Educational expenses through grade 12. A Guidelines-based support order shall encompass all ordinary educational expenses through the high school level. If appropriate, extraordinary educational expenses for children who have not yet completed high school, including private school tuition and costs of tutoring, shall be determined as an addition to support and shall be divided between the parties in proportion to their respective weekly adjusted incomes.

(H) Educational expenses after grade 12. Post high school educational expenses shall be determined as either an addition to, or in lieu of support. Except in unusual circumstances, an award of such expenses shall be limited to the lesser of:

- 1) The actual annual expenditures for tuition, room board, books, transportation, fees and miscellaneous expenses for the student; or
- 2) The annual cost of tuition, room, board, books, transportation, fees, and miscellaneous expenses which would be incurred by an Indiana resident attending the Bloomington campus of Indiana University as a resident student.

The Custodial parent and the child shall be responsible for making, timely applications for all scholarships and grants for which the child might be eligible. Other than in exceptional circumstances, gifts and trust funds intended for college, scholarships and grants shall be deducted from the educational expenses. All educational tax benefits (e.g. Hope Scholarship Credits and Lifetime Learning Credits) shall be applied by the party receiving them to the payment of educational expenses. Thereafter, the child shall be responsible for twenty-five percent (25%) of the remaining expenses, and the balance shall be divided between the parties in proportions to their respective weekly adjusted income. Except in unusual circumstances, the amount of support determined under the Guidelines shall be wholly abated when the

child is not in residence. The child shall execute any and all documents, and perform any and all other acts, reasonably necessary to afford both parents access to all available information regarding, grades, attendance, financial awards, grants and scholarships, and school disciplinary matters.

(I) Income Tax Benefits. The parties shall allocate income tax benefits for a minor child equitably, but in such a manner as to maximize tax benefits. A non-custodial party shall claim such tax benefits only if that party shall have paid all support due through the end of the affected calendar year by January 31 of the following year. Both parties shall execute any forms necessary to carry out the requirements of this paragraph. A party's refusal to sign such forms may be punishable by contempt or by imposition of other sanctions, including modification of the current support obligation to recapture any tax benefit lost by the non-custodial parent.

(J) All petitions to abate or modify child support orders which are filed by child support payors shall include a statement of the amount of the arrearage, if any, owed by petitioner in child support, and in the payment of the Clerk's annual fee for the collection and distribution of child support.

(K) So long as one or more the parties' children remain unemancipated or the beneficiary of an order for contribution to educational needs, the parties shall, upon request by either of them, exchange verification of income in the form of his or her most recent federal income tax return. Such income tax return shall be complete and include all attachments thereto. Such exchange shall be required no more often than once annually. Such exchange shall be concluded within two weeks of the making of such request. In the event that either party had not filed a federal income tax return for the tax year last concluded, that party shall provide the other with that federal income tax return described above, together with written verification of current income. Such verification may include a paycheck stub disclosing a year-to-date income or a current profit and loss statement reflecting self-employment or partnership income. It is the purpose of this rule to foster the exchange of accurate and complete income information in order to avoid needless litigation. This rule shall be liberally construed in order to achieve those ends.

(L) For purposes of this rule, healthcare expenses shall accumulate on a calendar year basis. The six percent (.06) deductible contemplated by the Rule shall be prorated for the balance of the calendar year in which the first support order in this case is entered, or in which the subject dissolution is granted, whichever is applicable. This proration shall be calculated by multiplying the total child support due from both parents by six percent (.06), dividing the product by three hundred sixty five (365), and multiplying the result by the number of days remaining in the year in question. As a general rule, in the event of a modification of an existing child support order, any resulting change in the six percent (.06) deductible shall become effective at the beginning of the next succeeding calendar year. The trial court may deviate from this general rule in order to avoid manifest injustice.

(M) In all actions in which a child support order remains in effect, either party shall, upon demand, provide the other party with a copy of his or her most recent federal income tax return, together with all schedules and other attachments. The party supplying the aforementioned income tax return may redact any portions thereof which relate solely to the computation of the income of any other person. Nothing in this rule shall require any person to provide more than one such copy during each calendar year; however, nothing in this rule shall infringe upon the right of any person to engage in appropriate discovery pursuant to the Indiana Rules of Trial Procedure.

LR20-TR16-NAHT-8 **HEARINGS/TRIALS**

(A) INITIAL HEARINGS

All judges and magistrates of Elkhart County, Indiana, Courts of general jurisdiction, including regular

judges and magistrates, senior judges and judges pro tempore, shall be authorized to conduct initial hearings and other preliminary hearings held in connection with civil and criminal cases filed in all Elkhart County, Indiana, Courts of general jurisdiction.

(B) STATUS CONFERENCES

- 1) At any time after the issues are finally closed on the merits of any civil case, any party may request, or the court on its motion may set, a status conference to set deadlines, facilitate discovery, and discuss settlement and alternative dispute resolution of the case.
- 2) At the status conference, all counsel shall be prepared to state:
 - a. Whether all parties have been correctly designated and properly served;
 - b. Whether a third-party complaint or impleading petition is contemplated;
 - c. The time reasonably required for completion of discovery;
 - d. Whether a jury trial has been timely demanded and if so, whether the parties would contemplate waiver of trial by jury;
 - e. Whether there are any pending motions and whether dispositive motions are contemplated;
 - f. Whether a separation of claims, defenses, or issues would be desirable and if so, whether discovery should be limited to the claims, defenses, or issues being tried first;
 - g. The prospects of disposing of the case through settlement, mediation, or other methods of alternative dispute -resolution.
- 3) At the conclusion of the status conference, the court may establish deadlines for disclosure of witnesses and exhibits to be offered at trial, discovery, amendments to the pleadings, dispositive motions, alternate dispute resolution measures, and any other matters to come before the court. The court may thereupon schedule a pretrial conference or a further status conference.
- 4) Deadlines established at the status conference shall not be extended, except by agreement of the parties and the Court, or for good cause shown.

(C) PRETRIAL CONFERENCES

- 1) Unless waived by the Court, a pretrial conference shall be held in every civil case. No case shall be set for trial before the pre-trial order is filed.
- 2) All discovery shall be completed at least five (5) days prior to the pretrial conference, except an examination of the physical or mental condition of a party pursuant to TR 35, which may be ordered at any time prior to trial. Prior to the discovery cutoff date the Court may extend the time for completing discovery upon the filing of a written motion showing good cause for the extension of time.
- 3) The attorney for each party and each party appearing pro se shall have an independent duty to arrange the conference of the attorneys required by TR 16 ©). Unless the attorneys agree otherwise, the conference shall be held in the office of the attorney located closest to the Court in which the case is pending. At this conference, every party shall provide each other party an opportunity to inspect and copy all exhibits. Any plaintiff's proposed exhibits shall be numbered, and any defendant's, proposed exhibits shall be lettered. The attorneys shall explore fully the possibility of settlement and of any further alternative dispute resolution techniques. The attorneys shall also discuss the length of time probably required for trial of the case and, in any case for which a jury has been requested, the possibility of waiving the jury and trying the case to the Court alone.
- 4) Following the conference of attorneys, and at least five (5) days before the pre-trial conference, the plaintiff shall file a proposed pre-trial order, signed by counsel for all parties. The proposed order shall cover the following points:
 - a. The nature of the action;

- b. The basis of jurisdiction of the Court;
 - c. Questions raised by pending motions;
 - d. Proposed amendments to pleadings;
 - e. A concise statement of the contentions of each party;
 - f. A concise statement of undisputed facts;
 - g. A concise statement of disputed issues of fact;
 - h. A concise statement of uncontested issues of law;
 - i. A concise statement of contested issues of law;
 - j. A numbered list of the names and addresses of each party's witnesses', with expert witnesses designated as such;
 - k. A numbered or lettered list of trial proposed exhibits of each party, as appropriate;
 - l. A concise statement of any disagreement regarding rules of law relating to anticipated jury instructions;
 - m. Appropriateness of ADR processes; and
 - n. A certification by each attorney or pro se party of compliance with the provisions of TR 16.
- 5) A pretrial order, once signed by the Court, shall govern the course of the trial. The pretrial order shall not be amended except by consent of the parties and the Court or by further order of the Court to prevent manifest injustice. All pleadings shall be deemed merged into the pretrial order.
- 6) If the parties fail to timely file any material required to be filed prior to the pretrial conference, the Court may postpone the pretrial conference and take further action as appropriate.

(D) TRIAL SETTINGS

- 1) Except for good cause shown, the parties and counsel involved in any civil jury trial set as a _backup_ trial shall be prepared to begin the trial when Scheduled.
- 2) All attorneys and all parties appearing pro se shall be responsible for discovering the sequence of cases and shall be prepared to try their cases on the date scheduled.
- 3) Whenever a Court sets a criminal case for trial and the defendant is not then present, the defendant within twenty-one days thereafter shall file a signed written acknowledgment of the trial date or shall in open court orally acknowledge the trial date.
- 4) No dispositive motions, including but not limited to motions for summary judgment, shall be filed in any action within one hundred twenty (120) days of a scheduled trial of that action without leave of court. Leave of court may be granted or denied with or without hearing, at the option of the court.

LR20-TR00-NATP-9 TRIAL PROCEDURES

(A) Ten days before the commencement of the trial of any criminal case or a civil case which is a _first or second setting_:

- 1) Each attorney shall mark for identification and provide opposing counsel an opportunity to inspect and copy all exhibits which that party intends to introduce into evidence during the trial. The proponent of the exhibit shall prepare a proposed stipulation and shall submit it to opposing counsel with the exhibits. All documents stipulated to be admissible shall be prepared so that the court and each juror shall have a packet of stipulated exhibits at the beginning of the trial; and
- 2) Each party shall provide the court and each opposing counsel a final written list of names and addresses of that party's witnesses, as well as a written list of exhibits. If without just cause the exhibits and lists are not exchanged, stipulated to, or provided, then the

exhibits or witnesses shall not be allowed to be used during the trial.

(B) Voir dire examinations shall be conducted first by the Court. Parties may submit to the Court, at least five days prior to the trial, any proposed questions for prospective jurors, which questions shall be asked if the court deems them appropriate. The Court may also grant each party a limited amount of time for additional examination of prospective jurors. The sole purpose of voir dire examination shall be to determine qualifications of prospective jurors.

(C) All challenges to prospective jurors seated in the jury box shall be exercised in writing after the first round of questioning of those prospective jurors. If more than one party peremptorily challenges the same juror, the challenge shall be counted against each party so challenging. At the end of each succeeding round, peremptory challenges may be exercised against only those persons seated after the previous round. Parties may interrogate previously-accepted prospective jurors only as to new matters and may thereafter challenge for cause a previously-accepted prospective juror.

(D) When an objection is made to a question posed to a witness during any jury trial, the person asking the question shall not state within the hearing of the jury the expected response of the witness.

(E) Only one person shall examine or cross-examine a witness, except by permission of the Court.

(F) A court shall not enforce any admissions, agreements, or stipulations unless they are reduced to writing and either filed with the Court or made a part of the record in open court.

LR20-TR51-NAJI-10

JURY INSTRUCTIONS

(A) A court may require a party to submit any proposed instructions either on paper or on a 3.5-inch computer diskette in WordPerfect format.

(B) In any civil case each party shall tender to the court all proposed preliminary and final instructions at least 14 days prior to the trial date.

(C) In any criminal case each party shall tender to the court all proposed preliminary and final instructions at least 3 days prior to the trial date.

(D) The Court may in its discretion permit the parties to submit additional proposed final instructions after the close of the evidence.

(E) Any proposed instruction shall contain a citation of legal authority for the proposed instruction. Indiana Pattern Jury Instructions shall be used wherever applicable. Failure to comply with this rule shall be deemed a waiver by a party of the right to tender instructions.

(F) A party submitting proposed instructions on paper shall submit the proposal in duplicate. One copy of each proposed instruction shall identify the party tendering the instruction and shall contain citations of authority. The other copy of the instruction shall be prepared so as not to identify either the party proposing the instruction or the citation of authority.

(G) A party proposing any instruction shall deliver a copy of such instruction to any other party.

LR20-TR00-NACE-11

CUSTODY/DISPOSITION OF EXHIBITS

(A) Any material marked as an exhibit, whether or not admitted into evidence, shall be held in the custody of the Court Reporter, unless otherwise ordered by the Court.

(B) All material placed in the custody of the Court Reporter shall be removed by the offering party, except as otherwise ordered by the Court, within four months after the final disposition of the case. At the time of removal, the party shall give a detailed receipt to the Court Reporter which shall be filed in the record of the case. If a party fails to comply with this rule, the Court may order the destruction or other disposition of the material.

LR20-TR00-CVSB-12 SURETY ON BONDS

(A) No attorney, employee or other officer of the Court shall be accepted as surety on bonds in criminal, civil or probate matters.

(B) The Court will require a bond in an amount sufficient to cover all liquid assets of all estates, trusts and guardianships. If any non-liquid assets (such as real estate) becomes liquid, the bond shall immediately be increased in an amount to cover the additional liquid asset. The bond shall also be in an amount to protect two (2) times the annual income. The bond may be waived in an estate only if a sole heir is also the personal representative and as heir files a waiver of bond or if all adult competent heirs file a waiver of bond, and in a guardianship if the minor's account cannot be withdrawn except by Court order. When two or more persons are appointed personal representative or co-guardians, they may file a joint surety.

LR20-CR00-CRBS-13 CRIMINAL BAIL/BOND SCHEDULE

(A) Unless otherwise ordered by a court, bail on felony charges shall be as follows:

<u>FELONY CLASS</u>	<u>SUSPENDIBLE</u>	<u>NONSUSPENDIBLE</u>
A	\$20,000.00	\$25,000.00
B	10,000.00	15,000.00
C	5,000.00	10,000.00
D	3,000.00	5,000.00

(B) Bail for any misdemeanor shall be \$1,500 per charge.

(C) A court may fix a higher or lower bail. Any bail setting shall be reviewable upon motion of any party.

(D) Subject to court approval, a person charged with any class C or class D felony which does not involve the use or possession of a deadly weapon and for which the sentence would apparently be suspendible may be permitted to post with the Clerk of the Court a cash bond in the amount of 10% of the bail as set, provided that:

- 1) The person has close ties to the local community;
- 2) The person has not been convicted of an offense;
- 3) The person agrees to submit to supervision by the pretrial release officer;
- 4) The bond is posted in the name of the defendant; and
- 5) The bond shall disclose on its face that it is a personal asset of the defendant and may be subjected to payment-of court-imposed financial obligations.

LR20-CR00-CRDD-14 CRIMINAL DISCOVERY DISCLOSURE

(A) In any criminal case, each party shall routinely disclose:

- 1) The names, dates of birth, Social Security Account Numbers, and last-known addresses

- of all persons whom that party may call as witnesses, together with any written or recorded statements the person may have made, any memoranda containing substantially-verbatim reports of any oral statements the person may have made and summaries of the anticipated testimony of each potential witness;
- 2) Copies of statements of any co-defendant;
 - 3) Copies of reports of experts made in connection with the case, including results of physical or mental examinations, scientific tests, experiments, or comparisons;
 - 4) Any books, papers, documents, photographs, videotapes, audio recordings, or tangible objects which the party may introduce at hearing or trial; and
 - 5) A record of prior criminal convictions of any witnesses called by that party.
- (B) In addition to the matters described in Section A of this Rule, the State shall disclose:
- 1) Copies of any written or recorded statements made by the defendant, summaries of any oral statements made by the defendant, and a list of witnesses to the making and acknowledgment of such statements; and
 - 2) Any other evidence which tends to negate the guilt of the defendant as to the offense charged or to mitigate the punishment of the defendant upon conviction.
 - 3) In addition to the matters described in Section A of this Rule, the defendant shall disclose any defense, procedural or substantive, which the defendant intends to assert at hearing or trial.
 - 4) A party seeking discovery shall prepare any discovery document so that answers may be made on the original discovery document. Discovery requests and responses shall not be filed with the Court or Clerk unless a dispute arises regarding said discovery.
 - 5) Providing discoverable material shall be a continuing Obligation of all parties and each party shall promptly provide any new material for which disclosure is required under this rule.
 - 6) A court may make more specific orders for additional discovery after a hearing on any appropriate motion filed by either party.
 - 7) A court may exclude from evidence any materials not properly disclosed to the other party and may impose further sanctions for any party's unjustified failure to comply with this rule.

LR20-AR15-NACR-15 COURT REPORTERS

Court reporter services in the Elkhart County Courts shall be governed by following local rule.

SECTION ONE: DEFINITIONS The following definitions shall apply under this local rule:

- (A) A Court Reporter is a person who is specifically designated by a court to perform the official court reporting services for the Court, including preparing a transcript of record.
- (B) Equipment means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
- (C) Work space means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- (D) Page means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (E) Recording means the electronic, mechanical, stenographic or other recording made as required

by Indiana Rule of Trial Procedure 74.

(F) Regular hours -worked means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.

(G) Gap hours worked means those hours worked that are in excess of the regular hours worked but hours not in excess for forty (40) hours per work week.

(H) Overtime hours worked means those hours worked in excess of forty (40) hours per work week.

(I) Work week means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

(J) Court means the particular court for which the court reporter performs services.

(K) County indigent transcript means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(L) State indigent transcript means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(M) Private transcript means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

(N) Expedited or _rush_ transcript is one which is requested for delivery within three days, excluding weekends and holidays,

SECTION TWO: SALARIES AND PER PAGE FEES

(A) Court reporters shall be paid an annual salary for the time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.

(B) The maximum per page fee a court reporter may charge for the preparation of a county or state indigent transcript shall be \$2.80; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts. However, whenever possible, county indigent transcripts shall be prepared during regular work hours. When prepared during regular work hours, a per page fee shall not be assessed.

(C) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$2.80

(D) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$2.80,

(E) The maximum per page fee a court reporter may charge for an expedited or _rush_ transcript shall be \$5.60.

(F) Each court reporter shall report, at least on an annual basis, all transcript fees for the preparation

of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

SECTION THREE: PRIVATE PRACTICE

(A) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

- 1) The reasonable market rate for the use of equipment, work space and supplies;
- 2) The method by which records are to be kept for the use of equipment, work space and supplies; and
- 3) The method by which the court reporter is to reimburse the court for the use of the equipment, workspace and supplies

(B) If a court reporter elects to engage in a private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

LR20-TR00-NAGC-16 GUARDIAN AD LITEM/CASA

(1) APPOINTMENT OF GUARDIAN AD LITEM

The Courts of Elkhart County reserve the right to appoint a guardian ad litem to represent the interests of minors and incapacitated persons. An order for appointment of a guardian ad litem may be entered by agreement of the parties and the court or by petition and approval by the court. Guardian ad litem fees shall be ordered paid by the parties in accordance with the percentages of their incomes, unless otherwise agreed to by the parties or the parties are determined to be indigent, in which case the court shall pay the fees at the rate set forth by Elkhart County. Within ten (10) days of the appointment of the guardian ad litem, the parties and/or counsel shall file a guardian ad litem information sheet form and shall serve a copy upon the guardian ad litem. The guardian ad litem shall file a written report with the court and serve copies upon the parties and/or counsel as ordered by the court. The guardian ad litem's appointment shall be considered terminated upon completion of the work required by the court's initial order or upon entry of an order deciding the matters at issue. The appointment may be renewed at a later date by further order of the court.

(2) JUVENILE COURT GUARDIAN AD LITEM/CASA

The Court shall appoint a Guardian Ad Litem and/or Court appointed Special Advocate (CASA) to each child involved in the Juvenile Court alleged to be a Child in Need of Services (CHINS), and in each Petition for Termination of Parental Rights. The following procedure shall be followed with respect to such appoints:

- 1) The CASA shall file a Form of Order with the Court appointing a CASA in each CHINS case. The Form of Order shall indicate the name of the assigned CASA.
- 2) The Court shall issue an Order appointing a CASA with the filing of all Termination Petitions. The CASA appointed in the corresponding CHINS action shall be appointed to represent the Minor in the Termination cause to provide for continuity in the representation of each child.

LR20- AR00-NAMC-17

MAGISTRATE AND IV-D COMMISSIONER GUIDELINES

(A) MAGISTRATE GUIDELINES The Courts of Elkhart County adopt the following guidelines regarding use of Magistrates:

- 1) Any Court may, with or without the consent of the parties, assign to a Magistrate the responsibility to hear specific currently-disputed matters.
- 2) The Magistrate shall, with reasonable promptness, hear such matters and shall issue to such Court either a report of findings, which may be accompanied by a recommendation for disposition of those matters, or a final order, whichever is appropriate under controlling law. Complaints regarding the timeliness of any disposition shall be made to the referring Court.
- 3) All filings related to any matter referred to a Magistrate shall be made with the Magistrate.
- 4) No change of venue from a Magistrate shall be granted. A change of venue from the referring Court may be sought under applicable trial Rules.
- 5) A Magistrate shall maintain an office which shall be open at all reasonable times during the Elkhart County hours of operation. A Magistrate shall maintain a telephone answering system during any workday periods when the office is not manned.
- 6) Referral of a matter to a Magistrate shall not operate as an appointment of a special judge, temporary judge or a judge pro tempore.

(B) IV-D COMMISSIONER GUIDELINES

The IV-D Child Support Court (hereinafter IV-D Court) is established by Elkhart County pursuant to Title IV, Section D, of the Federal Social Security Act for the purpose of providing for paternity establishment, establishment of child support orders, enforcement of child support orders and collection of past due support for Title IV-D Program participants.

- 1) In all cases in which the Title IV-D Child Support Division of the Elkhart County Prosecutor's Office (hereinafter IV-D Office) has intervened, all child support issues shall be deemed automatically referred to the IV-D Court;
- 2) Except that felony non-support cases shall remain in Elkhart Superior Court 6 unless Elkhart Superior Court 6 chooses to refer a felony non-support case to the IV-D Court.
- 3) In a case in which child support issues are deemed automatically referred to the IV-D Court, the underlying cause shall remain in the court in which it was originally filed, unless properly transferred to another court.
- 4) All new causes filed by the IV-D Office after January 1, 2005 shall be filed in Elkhart Superior Court 6 and the Judge of Elkhart Superior Court 6 shall supervise the administration of the IV-D Court.
- 5) All cases currently assigned a cause number will retain the original cause number; the IV-D staff will file all pleadings in the Court of origin with sufficient copies for all parties being noticed. All pleadings must include the parties address, dates of birth and social security numbers when preparing and filing orders, the IV-D Office shall tender two copies of the requested order plus one copy for each party.
- 6) The IV-D Office is exempt from filing fees.

LR20- JV00-NAJV-18 CIRCUIT COURT JUVENILE DIVISION

(A) JUVENILE COURT DETENTION AND PROTECTIVE CUSTODY HEARINGS

Such hearings are probable cause hearings and by nature ex parte. Notwithstanding the above:

- 1) Detention Hearing: Minor allowed to cross-examine and confront witnesses, representation by counsel and presentation of relevant evidence discretionary with Court.
- 2) Protective Custody Hearing: Minor, parent, guardian or custodian allowed (K)cross-examination and confrontation of witnesses and representation by counsel. Minor, parent, guardian or custodian allowed to make statement of explanation of circumstances surrounding protective custody, presentation of relevant other evidence discretionary with the Court.

(B) JUVENILE COURT INITIAL HEARINGS - DELINQUENCY/CHINS

- 1) Initial hearings shall be held pursuant to law.
- 2) Upon denial of petition, the Court will set the matter for fact finding hearing, unless the parties agree and the Court has sufficient time to hear the same without disruption of the remainder of the Court schedule.

(C) JUVENILE COURT DISPOSITIONAL, MODIFICATION OF DISPOSITION PROGRESS REPORTS, PLACEMENT REVIEW HEARINGS - DELINQUENCY/CHINS

- 1) Parties shall inform the Court within seven (7) days or such time as the Court determines, if the party intends to call witnesses other than Probation or the Division of Family and Children staff at such hearings; and said party shall inform opposing counsel and guardian ad litem or non-represented party within the same time limits.
- 2) The Court may reschedule such hearings if sufficient time is not available at the scheduled time.

(D) JUVENILE COURT WAIVER OF JURISDICTION, VIOLATION OF PROBATION DELINQUENCY AND TERMINATION OF PARENTAL RIGHTS - WELFARE

- 1) Initial hearings shall be held on such petitions.
- 2) Upon denial of same, the Court shall set the matter for fact finding or evidentiary hearing following Rule 11 herein above stated.
- 3) Upon granting of waiver of jurisdiction, the State shall provide the waiver decree embracing all facts which the party claims is proven and conclusions of law thereon within seventy-two (72) hours of the conclusion of the hearing, in such numbers that the Juvenile Court, the adult Court to which the minor is waived, Probation Department and minor receive copies.

(E) JUVENILE COURT REPORTS, ASSESSMENTS AND EVALUATIONS

- 1) All Division of Family and Children, Probation and CASA reports, court ordered assessments and evaluations shall be filed with the Court not later than 4:00 p.m. on the Friday before the scheduled hearing.
- 2) All such reports shall be served on opposing parties and CASA, if relevant, as soon as such are available, the latest being by 4:00 p.m. on the Friday before the scheduled hearing.

(F) JUVENILE COURT SCHEDULING

- 1) All scheduling shall be done by Court staff. Specific dates for hearing may be requested, efforts to accommodate such requests shall be made contingent upon availability.
- 2) The Court shall set fact finding hearings or evidentiary hearings in first and second settings. If a matter is set for hearing and is resolved before the evidentiary hearing, the parties shall notify the Court and all witnesses, probation officers or caseworkers that the matter has been resolved. Any _second setting_ shall be prepared proceed to evidentiary hearing with notice of seven (7) days prior to the scheduled setting. All parties shall be responsible for determining the order of cases and shall be prepared to try their cases on the dates scheduled.

(G) JUVENILE COURT ADDITIONAL PROCEDURES, FACT FINDING OR OTHER EVIDENTIARY HEARINGS

- 1) A writ of attachment for an absent witness shall not be issued unless the party calling said witness files an affidavit showing:
 - 2) The materiality of the testimony of the witness;
 - 3) The expected testimony of the witness; and

- 4) Certification that the absent witness was served with process more than three (3) days earlier or that for good and sufficient cause the witness was served with process less than three (3) days earlier.
- 5) Only one attorney for each party shall examine or cross-examine a witness, except by permission of the Court.
- 6). No person shall withdraw any original pleading, paper, record, model, exhibit or other document from the custody of the Clerk or other officer of the Court having custody thereof, except upon order of the Court and upon leaving a proper receipt with the Clerk or other officer.
- 7) Counsel for a party shall be responsible for preparing and filing summons, citations, notices or other documents for which forms may be obtained from the Clerk of the Court. These forms shall include any names, addresses and other descriptive information, such as place of employment, necessary to effect service of said document.
- 8) CASA's, foster parents, school personnel, Lifeline staff, institutional placement staff and any others the Court may determine will be invited by the Court to give reports and testimony as to a minor at dispositional, progress report, placement review or other hearing where such testimony is admissible under the law.

(H) JUVENILE COURT RULES OF COURTS OF GENERAL JURISDICTION

The Rules of Court promulgated by the Courts of General Jurisdiction are applicable to Juvenile Court unless negated by statute or Juvenile Court Rule.

THE FOREGOING RULES SHALL BE IN FULL FORCE AND EFFECT UNTIL OTHERWISE AMENDED.
ALL INCONSISTENT RULES OF ANY OF THESE COURTS ARE HEREBY REVOKED.

TERRY SHEWMAKER, JUDGE
ELKHART CIRCUIT COURT
COURTHOUSE
GOSHEN IN 46526

EVAN S. ROBERTS, JUDGE
ELKHART SUPERIOR COURT 1
315 SOUTH 2ND STREET
ELKHART IN 46516

STEPHEN E. PLATT, JUDGE
ELKHART SUPERIOR COURT 2
315 SOUTH 2ND STREET
ELKHART IN 46516

GEORGE W. BIDDLECOME, JUDGE
ELKHART SUPERIOR COURT 3
COURTHOUSE
GOSHEN IN 46526

OLGA H. STICKEL, JUDGE
ELKHART SUPERIOR COURT 4
COURTHOUSE
GOSHEN IN 46526

JAMES W. RIECKHOFF, JUDGE
ELKHART SUPERIOR COURT 5
315 SOUTH 2ND STREET
ELKHART IN 46516

DAVID C BONFIGLIO, JUDGE
ELKHART SUPERIOR COURT 6
315 SOUTH 2ND STREET
ELKHART IN 46516

DEBORAH DOMINE , MAGISTRATE
JUVENILE COURT
315 SOUTH 2ND STREET
ELKHART IN 46516

DAVID A DENTON, MAGISTRATE
315 SOUTH 2ND STREET
ELKHART IN 46516

THOMAS A MURTO, MAGISTRATE
COURTHOUSE
GOSHEN IN 46526

MONA E BIDDLECOME
IV-D COMMISSIONER
315 SOUTH 2ND STREET
ELKHART IN 46516